3: Leyburn Z-4, 5 (no date) 1966
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631 [361] Overlapping these military arrondissements have been financial arrondissements, generally six in number. The capital of each of these was a port, with a customs house: Port-au-Prince and Jacmel in the West, Les Cayes and Jérémie in the South, Cap-Haïtien in the North, and Gonaïves in the Artibonite.

Finally there were the five *départements*. These seem never to have been much more than geographical divisions to which it was convenient occasionally to refer. In more recent years, as records have been kept with more accuracy, the departments have developed important clerical significance.

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Département	*Capital*	*Estimated Population (1930)*
North	Cap-Haïtien	450,000
Northwest	Port-de-Paix	150,000
Artibonite	Gonaïves	475,000
West	Port-au-Prince	950,000
South	Les Cayes	650,000

According to the present constitution, the country still has its five administrative departments, but has increased its other political subdivisions. There are 27 arrondissements to attend to governmental details, and in addition, 10 prefectures overlapping the arrondissements and serving as units of police control. The arrondissements are still further subdivided into 94 communes, 43 military posts, and 551 rural sections. Each commune is administered by a communal magistrate, appointed by the secretary of the interior, and so subordinate to the central government. This magistrate is assisted by a communal council or a municipal council, composed of elected prominent citizens.[2]

692 693 Courts have existed only in the important towns, which since Boyer's presidency have varied in number from four to eight. Each of these courts has consisted of a president or *doyen*, four judges, four substitute judges, a commissioner appointed by the president of the republic to keep watch over the proceedings of the body, and various inferior clerks and secretaries. Judges are politically appointed, either by the president of the republic or by his cabinet. Civil cases which exceed fifty dollars in extent have been handled by these 693 courts, as also all appeals from decisions of local juges de paix. To 695 the judges were added in 1826 juries to assist in criminal cases

2. See Luc Dorsinville, *Géographie-Atlas* (Port-au-Prince, 1929), *passim*.

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exceeding the jurisdiction of the local juges, these juries to be named by the doyen and his colleagues. It was a dubious reform, often a worthless privilege; at times it was definitely harmful, for no matter how explicit the law, mere technicalities in a long, involved trial could be completely befuddling to an illiterate juror. Brown tells the tale of a certain foreman of the jury who asked a juror his opinion of a defendant's innocence; the juror replied that he could not write, whereas "you have written it all down. Let us know what you have done."[3] Innocence might easily be convicted by this system, and guilt escape. The addition of a jury to the court was even useless in many instances, for the language of the lawyers was French, and that of the jurors almost certain to be Créole. Boyer's attempt to graft English court practice upon the French system already functioning in Haiti was certainly not happy; the jury system shortly disappeared.

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Complicated forms are not for the peasant. He knew a soldier and a soldier's function in the countryside, but not the relation of the arrondissement to the national government; the juge de paix was understandable, but not the procedure of the civil courts at department capitals. The national government and its structure were remote, although the president's name might be familiar. Haiti was really organized from the top down rather than from the bottom up. The powers of the early presidents were arbitrary: they could not only order changes in the framework of any part of government, but might also shift at will the personnel.

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Carl Becker remarks: "In 1791, the French began their spectacular feat in constitution making. Between 1791 and 1875 Taine counts thirteen French constitutions adopted in relatively rapid succession. I can find only twelve, but maybe Taine is right. It doesn't really matter. The point is that for facility, speed, and endurance in constitution making, France holds the record. Yet other nations also ran."[4] Haiti was one of them: in fact the record is properly hers, although Professor Becker does not mention the little Caribbean state. In the nineteenth century Haiti lived under fifteen constitutions, to which she has added at least two more in the twentieth century. It is not always easy to say when a constitution is new: its author may

3. Jonathan Brown, *The History and Present Condition of St. Domingo*, II, 271–272.
4. "Afterthoughts on Constitutions," *The Yale Review*, XXVII, No. 3 (Spring, 1938), 451.

3: Leyburn Z-4, 5 (no date) 1966
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692 public, or against any of the secretaries of state or other important officials; but if this court was ever convoked, records of its actions are lacking.[8]

The most important actually functioning court was that of Cassation. In American terminology this would be called the Court of Appeals, reviewing cases coming up from the civil and criminal courts of the important towns. It sat at Port-au-Prince, and consisted of fourteen judges appointed by the president and his cabinet.

[177] Boyer had borrowed most of the forms of important Haitian courts from France, but he could not transfer to his country the spirit and tradition which made those courts function in France. The High Court of Justice remained a mere plan; the national Court of Cassation and the so-called department courts in the four to eight large towns operated under close presidential scrutiny; only the juges de paix, dealing with small and homely cases, had comparative freedom.

175 It was generally acknowledged throughout the nineteenth century
● 695 that Haitian judges, whether of the Court of Cassation or of the
693 department courts, could be influenced by pecuniary and political considerations. The odds were heavy in favor of any suitor who was
175 liberal in his bribes to the judges; "justice" could be bought, and
693 was. By French tradition of justice, the prisoner was assumed to be guilty until he was proved innocent. In Haiti he was bullied, cajoled, and cross-questioned in order to force a confession, and to make him state in open court what he was said to have admitted in his preliminary examination. Confessions were obtained by beatings, and prisoners were occasionally even tortured to death.

175 Another characteristic of the nineteenth-century courts—and not
695 in Haiti alone—was the tardiness of their procedure. Consider the civil case in one of the department courts. If a creditor instituted a suit against a debtor in one department and obtained a favorable verdict, the defendant was permitted to appeal from the sentence to the court of an adjoining department, and so on in succession throughout the whole series; if the last court confirmed the judgment of the first, the defendant could then move it into the Court of

[692] 8. This Supreme Court would, according to the constitution, be formed only by proclamation of the Senate (and therefore under the ultimate control of the president), and might not hold its sessions in a spot more than twelve leagues from the seat of the Senate. Consisting of fifteen judges to be chosen by lot from the tribunals of the five Haitian departments, a two-thirds majority would be necessary for conviction, and no appeal might be made from its decisions.

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Cassation at Port-au-Prince. In the event that this court confirmed the judgment of the lower courts, the defendant might still appeal from it to the president, and might apply for a new trial in the lower courts. Thus the contest would proceed ad infinitum, however clear the proof that the debt was just.

The Court of Cassation exceeded all others in the slowness of its judgments. Its judges were under the surveillance of the president, and must consult with him before deciding a case. If he disagreed, and the state was a party to the case, the judges must reconsider "to see if they have not taken a wrong view of the question at issue." Even so, the grand judge might stay execution as long as he deemed advisable after a judgment was confirmed.

Judges were rarely chosen from among trained lawyers, but were appointed by the government because of political considerations. Consequently, few people had any faith in court decisions, and in general they avoided taking their problems to law. The peasants in particular were bewildered by the whole procedure. White foreigners also often complained that unless they were willing to pay heavily they had no slightest chance of getting justice in the Haitian courts.

It must be emphasized that the majority of cases coming before the courts were civil rather than criminal, for it has been a universal matter of comment that the Haitian people were rarely guilty of serious crimes. Minor thefts of poultry or animals have been the commonest breaches of the peace, while murder, arson, and rape have almost never occurred. Even the bitterest critics of the republic have noted the absence of crime.[9] It is noteworthy that, despite their poverty and the hardness of their life, the Haitians are, contrary to the prevailing white man's notion of Negro unreliability, passion, and lawlessness, a tranquil folk. The absence of crime speaks volumes for the wholesomeness of a people much maligned by the stories of their "Voodoo" practices and bloody revolutions. An élite ex-president spoke to me with pride of the honesty of the country people who welcomed travelers with true hospitality and with no expectation of payment. "You might sleep safely in a country cabin with a thousand dollars on your person," he said.[10]

9. Mackenzie, British consul during a part of Boyer's régime, and young Haiti's fiercest critic, said that during his whole stay he knew of only one murder, and that in this case the assassin was executed.

10. In times of revolution, brigandage was expected but was not accounted a crime, any more than killing in warfare is called murder.